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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-825*

13 **LORI ELIZABETH BROWN**  
14 **5067 Golden Avenue**  
**Riverside, CA 92505**

**A C C U S A T I O N**

15 **Registered Nurse License No. 765475**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about January 19, 2010, the Board of Registered Nursing issued Registered  
24 Nurse License Number 765475 to Lori Elizabeth Brown (Respondent). The Registered Nurse  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on August 31, 2013, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order

1 to fix the degree of discipline or to determine if the conviction is substantially related  
2 to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"  
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or  
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the  
9 following:

10 . . . .

11 (f) Conviction of a felony or of any offense substantially related to the  
12 qualifications, functions, and duties of a registered nurse, in which event the record of  
13 the conviction shall be conclusive evidence thereof.

14 . . . .

15 10. Section 2762 of the Code states:

16 In addition to other acts constituting unprofessional conduct within the meaning  
17 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person  
18 licensed under this chapter to do any of the following:

19 . . . .

20 (b) Use any controlled substance as defined in Division 10 (commencing with  
21 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
22 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
23 dangerous or injurious to himself or herself, any other person, or the public or to the  
24 extent that such use impairs his or her ability to conduct with safety to the public the  
25 practice authorized by his or her license.

26 (c) Be convicted of a criminal offense involving the prescription, consumption,  
27 or self-administration of any of the substances described in subdivisions (a) and (b) of  
28 this section, or the possession of, or falsification of a record pertaining to, the  
substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof.

. . . .

11. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere  
made to a charge substantially related to the qualifications, functions and duties of a  
registered nurse is deemed to be a conviction within the meaning of this article. The  
board may order the license or certificate suspended or revoked, or may decline to  
issue a license or certificate, when the time for appeal has elapsed, or the judgment of  
conviction has been affirmed on appeal or when an order granting probation is made  
suspending the imposition of sentence, irrespective of a subsequent order under the

1 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his  
2 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of  
guilty, or dismissing the accusation, information or indictment.

### 3 REGULATORY PROVISIONS

4 12. California Code of Regulations, title 16, section 1444, states:

5 A conviction or act shall be considered to be substantially related to the  
6 qualifications, functions or duties of a registered nurse if to a substantial degree it  
7 evidences the present or potential unfitness of a registered nurse to practice in a  
manner consistent with the public health, safety, or welfare. Such convictions or acts  
shall include but not be limited to the following:

8 (a) Assaultive or abusive conduct including, but not limited to, those violations  
9 listed in subdivision (d) of Penal Code Section 11160.

10 (b) Failure to comply with any mandatory reporting requirements.

11 (c) Theft, dishonesty, fraud, or deceit.

12 (d) Any conviction or act subject to an order of registration pursuant to Section  
290 of the Penal Code.

13 13. California Code of Regulations, title 16, section 1445 states:

14 . . . .

15 (b) When considering the suspension or revocation of a license on the grounds  
16 that a registered nurse has been convicted of a crime, the board, in evaluating the  
17 rehabilitation of such person and his/her eligibility for a license will consider the  
following criteria:

18 (1) Nature and severity of the act(s) or offense(s).

19 (2) Total criminal record.

20 (3) The time that has elapsed since commission of the act(s) or offense(s).

21 (4) Whether the licensee has complied with any terms of parole, probation,  
restitution or any other sanctions lawfully imposed against the licensee.

22 (5) If applicable, evidence of expungement proceedings pursuant to Section  
23 1203.4 of the Penal Code.

24 (6) Evidence, if any, of rehabilitation submitted by the licensee.

### 25 COSTS

26 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licensee found to have committed a violation or violations of  
28 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case, with failure of the licensee to comply subjecting the license to not being  
2 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
3 included in a stipulated settlement.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(April 11, 2012 Criminal Conviction for DUI on May 5, 2011)**

6 15. Respondent has subjected her license to disciplinary action under sections 490 and  
7 2761, subdivision (f) of the Code in that Respondent was convicted of crimes that are  
8 substantially related to the qualifications, functions, and duties of a registered nurse. The  
9 circumstances are as follows:

10 a. On or about April 11, 2012, in a criminal proceeding entitled *People of the*  
11 *State of California v. Lori Elizabeth Brown*, in Orange County Superior Court, case number  
12 11NM11391, Respondent was convicted on her plea of guilty of violating Vehicle Code section  
13 23152, subdivision (a), driving under the influence of alcohol, and Vehicle Code section 23152,  
14 subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08% or more,  
15 misdemeanors. The court found true the special allegation that Respondent was previously  
16 convicted of the same offense on September 24, 2009, pursuant to Vehicle Code section 23540,  
17 as described in paragraph 18, below. Respondent was also convicted of driving without a valid  
18 driver's license (Veh. Code, § 12500, subd. (a)). As a result of Respondent's payment of  
19 restitution to the victim, the court dismissed an additional count of hit and run with property  
20 damage (Veh. Code, § 20002, subd. (a)).

21 b. As a result of the convictions, on or about April 11, 2012, Respondent was  
22 sentenced to serve 30 days in the Orange County Jail, with credit for one day. The court  
23 authorized Supervised Electronic Confinement. Respondent was further ordered to complete an  
24 18-month Multiple Offender Alcohol Program and a MADD Victim Impact Panel session, pay  
25 fees, fines, and restitution, and comply with standard alcohol conditions.

26 c. The facts that led to the convictions are that on or about the afternoon of May 5,  
27 2011, a patrol officer with the Brea Police Department responded to a report of a hit and run  
28 collision. Upon arrival, the officer spoke to the victim who stated that a female driver

(Respondent) had backed into his company truck at a gas pump. The victim told Respondent to get out of her vehicle. Respondent looked at the damage to the victim's truck, got back into her vehicle and drove away. The victim stated that he yelled at Respondent and told her he was going to call 9-1-1, but Respondent did not stop. The officer ran a check of Respondent's license plate number, which came back to an address one block away. Officers made contact with Respondent at her residence. The officer could smell a strong odor of an alcoholic beverage about her person, she appeared to be swaying in a circular motion, and her eyes were bloodshot and watery. Respondent provided a single breath sample which was analyzed by the preliminary alcohol screening device with a BAC of .17 percent. Respondent was unable to complete the field sobriety tests as explained and demonstrated by the officer, and she was arrested for driving under the influence. During booking, Respondent provided a second breath sample which was analyzed with a BAC of .13 percent nearly two hours after the first sample was provided.

#### **SECOND CAUSE FOR DISCIPLINE**

##### **(Dangerous Use of Alcohol)**

16. Respondent has subjected her registered nurse license to disciplinary action under section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about May 5, 2011, as described in paragraph 15, above, Respondent used alcoholic beverages to an extent or in a manner that was dangerous and injurious to herself, and to others in that she operated a motor vehicle while significantly impaired, caused a collision, and left the scene of the collision.

#### **THIRD CAUSE FOR DISCIPLINE**

##### **(Alcohol-Related Criminal Convictions)**

17. Respondent has subjected her registered nurse license to disciplinary action under section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about April 11, 2012, as described in paragraph 15, above, Respondent was convicted of offenses involving the consumption of alcohol.

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1 **DISCIPLINARY CONSIDERATIONS**


2 18. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant  
3 to California Code of Regulations, title 16, section 1445, subdivision (b), Complainant alleges  
4 that on or about September 24, 2009, in Jefferson County Circuit Court, Commonwealth of  
5 Kentucky, in case number 09N014740, Respondent was convicted of violating Kentucky Revised  
6 Statutes 189A.010, operating a motor vehicle with a blood alcohol concentration of or above  
7 0.08, a misdemeanor.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board of Registered Nursing issue a decision:

- 11 1. Revoking or suspending Registered Nurse License Number 765475, issued to Lori  
12 Elizabeth Brown;
- 13 2. Ordering Lori Elizabeth Brown to pay the Board of Registered Nursing the  
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
15 Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.
- 17

18 DATED: March 26, 2013

19   
20 LOUISE R. BAILEY, M.ED., RN  
21 Executive Officer  
22 Board of Registered Nursing  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

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